

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA	.	Criminal No. 1:14cr261
	.	
vs.	.	Alexandria, Virginia
	.	January 9, 2015
ROLANDO FELICIANO,	.	9:52 a.m.
	.	
Defendant.	.	
	.	
. . . . .	.	

TRANSCRIPT OF SENTENCING  
BEFORE THE HONORABLE GERALD BRUCE LEE  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE GOVERNMENT:	MATT J. GARDNER, AUSA United States Attorney's Office 2100 Jamieson Avenue Alexandria, VA 22314
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FOR THE DEFENDANT:	GEREMY C. KAMENS First Assistant Federal Public Defender Office of Federal Public Defender 1650 King Street, Suite 500 Alexandria, VA 22314 and REBECCA GRAY, ESQ. Gibson, Dunn & Crutcher LLP 1050 Connecticut Avenue, N.W. Washington, D.C. 20036-5306
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COURT REPORTERS:	RENECIA A. SMITH-WILSON, RMR, CRR ANNELIESE J. THOMSON, RDR, CRR
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Proceedings reported by stenotype by Renecia A. Smith-Wilson;  
transcript produced by Anneliese J. Thomson.

## P R O C E E D I N G S

(Defendant present.)

THE CLERK: 1:14cr261, United States versus Rolando Feliciano.

MR. GARDNER: Good morning, Your Honor. Matt Gardner for the United States.

THE COURT: Good morning.

MR. KAMENS: Good morning, Your Honor. Jeremy Kamens and Rebecca Gray on behalf of Mr. Feliciano.

THE COURT: Good morning, Ms. Gray. Good morning, Mr. Kamens.

Good morning, Mr. Feliciano.

THE DEFENDANT: Good morning, sir.

THE COURT: Mr. Kamens, who's going to speak for Mr. Feliciano?

MR. KAMENS: I will, Your Honor.

THE COURT: All right. I take it that you and Mr. Feliciano have reviewed the presentence report?

MR. KAMENS: We have, Your Honor.

THE COURT: Are there any objections to the report?

MR. KAMENS: We have objections. We've specified them in our papers. They specifically relate to the application of the production guideline and also the application of the enhancement for a pattern.

This is somewhat unusual in that the parties agree

1 that those enhancements shouldn't apply. I can speak to them  
2 briefly, and I would say this --

3 THE COURT: Well, I've read both sides' submissions,  
4 and I'm prepared to sustain the objections. I prefer to adhere  
5 to your (inaudible) as you-all have worked out, and I think  
6 you-all have made a judgment. I'm prepared to accept it.

7 MR. KAMENS: Thank you, Your Honor.

8 THE COURT: Let me hear from Mr. Gardner.

9 MR. KAMENS: Thank you.

10 MR. GARDNER: Thank you, Your Honor. The  
11 government's recommendation is for a sentence of 108 months in  
12 custody. This is obviously very serious conduct, and I'll just  
13 highlight two portions of it.

14 First, it involved a long period of time,  
15 approximately nine months, during which time Mr. Feliciano was  
16 engaged on a regular basis, often many times during a day, in  
17 grooming essentially the 13-year-old girl in this case. He was  
18 speaking with her on various means, you know, text messages,  
19 iPhone, and other messaging services.

20 During that time, his -- he was mixing both threats,  
21 threats, for instance, where he would say that if she wouldn't  
22 respond to him quick enough, that he might kill himself, with  
23 trying to help her, helping with her homework, for example, all  
24 of which it's the government's position was designed to  
25 ultimately result in these trips that he traveled from New

1 Jersey to Virginia in which he intended to engage in illicit  
2 sexual conduct with a 13-year-old. He did, in fact, drive down  
3 and picked her up at her middle school in at least one of those  
4 trips. It's very serious conduct, and I think that speaks for  
5 itself.

6 I will -- at one point on the psychiatric report  
7 submitted by the defense, it's the government's position that,  
8 that Mr. Feliciano's mental health in the psych report are  
9 both -- it's mitigating and aggravating. It's -- certainly  
10 there is some sympathy for Mr. Feliciano based on his mental  
11 health and his background.

12 At the same time, though, it's alarming to some  
13 extent. I think the doctor -- doctor's characterizations of  
14 him was someone who may not be able to have the same cognitive  
15 functioning and awareness that others would, which raises  
16 concern for why he did this the first time, and it's not clear  
17 how that necessarily will change in the future without a lot of  
18 structure in his life. So --

19 THE COURT: Was there any indication that he had been  
20 trolling Facebook for underage girls?

21 MR. GARDNER: No indication one way or the other.

22 THE COURT: All right.

23 MR. GARDNER: So it's just simply unknown.

24 Portions -- large portions, we think -- of his  
25 computer media we weren't able to recover. What we did recover

1 I will say did not have indications that there were contact  
2 with girls other than the 13-year-old girl in this case and one  
3 of her friends that he was using as a go-between with the main  
4 victim.

5 THE COURT: All right.

6 MR. GARDNER: So it's unknown beyond this would be  
7 the government's position.

8 Lastly, Your Honor, the government's requested a  
9 victim impact statement or restitution from the victim, and we  
10 haven't received anything from her at this point, so there's no  
11 victim impact statement or restitution request at this point.

12 THE COURT: All right, thank you.

13 MR. GARDNER: Thank you.

14 THE COURT: Mr. Kamens?

15 MR. KAMENS: Your Honor, this is a case that speaks  
16 to why individualized sentencing is so critical to our system  
17 of justice. As the Supreme Court has said, it is important  
18 that punishment should fit the offender and not simply the  
19 crime.

20 Mr. Gardner, my colleague prosecutor in this case, is  
21 absolutely correct, of course, that this is an undeniably  
22 serious offense. There is no dispute about that. The question  
23 here today is the appropriate punishment for Mr. Feliciano.

24 The brief details of Mr. Feliciano's life don't  
25 really tell the Court why a sentence of 87 months is more than

1 sufficient in this case to accomplish the purposes of  
2 sentencing.

3 He's 50 years old. He lived in Elizabeth, New  
4 Jersey. He worked as a truck driver. He had actually received  
5 his CDL license, and as Mr. Feliciano has said, God put him on  
6 this Earth to be a truck driver. It is a significant  
7 accomplishment in his life.

8 He lived alone in a room in a boardinghouse, and he  
9 was very lonely, even though he has a loving family and friends  
10 who have submitted letters of support to the Court, and they  
11 all say that Mr. Feliciano is a generous person, that more than  
12 one said that he would give the shirt off his back to help  
13 others, but the critical point in this case is the content of  
14 the neuropsychological report that has been submitted to the  
15 Court because it informs the Court and the parties about why  
16 this case occurred.

17 Mr. Gardner just said that the evidence doesn't show  
18 one way or the other that Mr. Feliciano was reaching out to  
19 others -- other minors. In fact, there is information in the  
20 discovery and we've also looked at Mr. Feliciano's Facebook  
21 communications, and during this period, Mr. Feliciano sought to  
22 alleviate the loneliness that he suffered by reaching out to  
23 others, people he didn't know, on Facebook, reaching out to  
24 other people, saying, hi, how are you, people he just wanted to  
25 communicate with.

1           The vast majority of those people didn't respond.  
2 One did, and that's why we are here. It is unfortunate that  
3 this girl did respond to Mr. Feliciano and they developed this  
4 relationship, but it is critical to understand what is in this  
5 report that we've submitted as to why that occurred in this  
6 case.

7           There is absolutely no other information in the case  
8 to suggest that Mr. Feliciano in any way is a pedophile or  
9 otherwise was seeking out minors to communicate with, and  
10 that's important. It distinguishes this case from almost every  
11 other case that the Court sees with these types of offenses of  
12 conviction.

13           It's important for the Court to understand as well  
14 the absolutely terrible conditions that Mr. Feliciano has  
15 suffered at the Alexandria Detention Center. It is not because  
16 the detention center sought specifically to punish him. From  
17 their perspective, it was to protect him because Mr. Feliciano  
18 was the type of person who suffered from threats at the  
19 Alexandria Detention Center from other inmates due to the  
20 nature of these charges and due to Mr. Feliciano's conditions.

21           He was placed in two isolation wings, and I will tell  
22 the Court that we have -- the people who have represented  
23 Mr. Feliciano went to see him more than any other client that I  
24 have and that most other clients that we have in the office  
25 because he was in these conditions of isolation, which the

1 Alexandria Detention Center did to protect him, but what, in  
2 fact, they did is they kept him in isolation for 22 and 23  
3 hours of a day, and for someone with the deficits that are  
4 identified in Dr. James' report, that is particularly difficult  
5 because he does not have the tools, does not have the equipment  
6 to deal with that kind of treatment.

7 And I say that simply to say to the Court that the  
8 sentence that we have asked for, 87 months, is more than  
9 sufficient to accomplish the purposes of sentencing. It is  
10 more than sufficient to punish Mr. Feliciano for what he did.

11 He does have strengths, and I think the strengths  
12 that he has are, are included in the letters that have been  
13 submitted to the Court. He has loving family. He has friends  
14 who have spoken about his generous nature and, most  
15 importantly, about his faith. It is the most important thing  
16 in Mr. Feliciano's life.

17 It is something that has allowed him to survive over  
18 the past number of months, and the Court knows he was  
19 originally arrested by state authorities. He was held in  
20 Fairfax from March of 2014 and then was handed over to federal  
21 officials in the summer, but the reason that he has been able  
22 to survive is because of his faith, and I know that he will  
23 speak to the Court about that.

24 The last thing I will say to the Court is that in  
25 determining what is the appropriate sentence in this case, the



1 Court has to understand that 87 months is not a modest sentence  
2 in any way. It is something that will require Mr. Feliciano to  
3 spend years in prison, starting from -- he's 50 years old, so  
4 he will not be released until he is well into his fifties or  
5 into his late fifties.

6 And the question that the government poses, why  
7 should the Court have any assurance that he will change his  
8 behavior when he was released -- when he is released, because  
9 ultimately he will be released back into the community, and I  
10 would say to the Court these two things:

11 First, Dr. James' report reveals that what is  
12 important for Mr. Feliciano is that he have vocational training  
13 and focus on what he is good at, and that is what I think has  
14 allowed him to be a productive citizen for all of his life. He  
15 has no criminal history points. He loved being a truck driver.  
16 That along with his faith were the focus of his life.

17 And the second reason that we can be assured that  
18 this will not occur is because there is absolutely no other  
19 indication in this case that Mr. Feliciano is a pedophile or  
20 otherwise a threat to children. Mr. Feliciano understands that  
21 he is -- the reason that he is here is because he has committed  
22 a crime, but he is dedicated to ensuring that he can return to  
23 his family and be law-abiding in the future, and that's why we  
24 believe 87 months is sufficient to accomplish the purposes of  
25 sentencing in this case.

1           THE COURT: All right. Mr. Feliciano, come up,  
2 please. Mr. Feliciano, is there any statement you want to make  
3 in your own behalf?

4           THE DEFENDANT: Yes, Your Honor.

5           THE COURT: I'm listening.

6           THE DEFENDANT: There's something I wrote out.  
7 Through my faith, I have learned that God is the light, and  
8 through his son, we can go to the kingdom of God and only  
9 through his son.

10           The man that was arrested nine-and-a-half months ago  
11 is gone. The Lord broke me. He carried me through these nine  
12 months and made me a new man.

13           He took my heart of stone and gave me a heart of  
14 flesh. He took me from the light into the darkness like Job.  
15 He took me -- he took all I had and put me in rags. He threw  
16 test after test at me, testing my faith, making me feel hunger  
17 and loneliness. He tested me day after day, and when I faulted  
18 him and disobeyed him, he made it worse.

19           But in the last nine months, I came to love God with  
20 all my heart. That sinful man that nine-and-a-half months ago  
21 was arrested is gone. I have a new life in Jesus Christ, and I  
22 love him as much as he loves me.

23           Sorry, Your Honor. Thank you.

24           THE COURT: Mr. Feliciano, you are before the Court  
25 having pled guilty to travel with the intent to illicit --

1 engage in illicit sexual conduct and receipt of child  
2 pornography, and as you know, this offense involves your  
3 communication with and inappropriate sexual touching of a  
4 13-year-old female girl.

5           It was a very troubling case because of the things  
6 that you did in terms of the way you were interacting with her,  
7 providing her with the cell phone, the photographs, the  
8 pictures that were sent by her to you.

9           And it's a remarkable case, there's no indication  
10 that you actually had sexual intercourse with her, so that's,  
11 that's a fact as well, but a 13-year-old girl is in puberty.  
12 She's not able to give consent. You are too old to be dealing  
13 with somebody 13 years old.

14           And your lawyer, to his credit, he's given me some  
15 information from Dr. James about your background and your  
16 mental health issues, which are real, I think, and I think that  
17 they are a factor that I will take into consideration, but you  
18 have to know the Court has a very low tolerance for anyone who  
19 would engage in an inappropriate sexual relationship with a  
20 child, a very low tolerance for that, and my predisposition  
21 would be to give you the maximum sentence I could possibly  
22 give. That's my predisposition as a parent, and everyone  
23 thinks it's just wrong what you did.

24           But I understand that, you know, given that your IQ  
25 is low and the issue that your doctor has pointed out here, the

1 things that I should take into account, and I've considered  
2 that the lawyers here have reached what I think is a very fair  
3 agreement about what the guideline range should be in this  
4 case.

5 And I am, as I said, very disturbed by the number of  
6 interactions you had with her and what you did.

7 But your age, which is 50, and the fact that you have  
8 no prior record suggests to me you are a low risk for  
9 recidivism, and I was very focused on whether or not the mental  
10 professional decided -- gave me an indication you have any  
11 indicia of pedophilia, and there is no indication of that and  
12 no indication from the government one way or the other whether  
13 or not this was the only child that you interacted with or  
14 whether there were others.

15 So given all those things, I'm going to sentence you  
16 to 90 months in the custody of the Bureau of Prisons on each  
17 offense, 90 months. Each sentence is to run concurrent with  
18 each other.

19 And I'm going to place you on a term of supervised  
20 release. The supervised release term will be five years, and  
21 they will run concurrent with each other and the sentences run  
22 concurrent with each other.

23 And the following conditions are going to be imposed  
24 on supervised release: First is you're required to participate  
25 in sex offender treatment and mental health treatment,

1 including a psychosexual evaluation. The cost of those  
2 programs will be paid in part by you if you have the ability to  
3 pay them, and you're required to waive confidentiality so that  
4 the probation officer can speak with any of your mental health  
5 professionals involved in your treatment.

6 Under the Adam Walsh Child Safety -- Child Protection  
7 Safety Act, you are required to register, which means you've  
8 got to show up at a police station and register in any state  
9 where you live, work, or attend school, and to register as a  
10 sex offender.

11 You are not to possess or to use a computer or access  
12 any online service at any location, including employment,  
13 without the approval of the probation officer, and that  
14 includes using the internet at any public facilities, and allow  
15 the probation officer to install any software if they decide  
16 it's appropriate to have computer access so that it can be  
17 monitored.

18 The computer monitoring program, part of that will be  
19 paid by you if you are permitted to have a computer. I'm not  
20 saying that you should have a computer. I'll let you and the  
21 probation officer make a judgment about that, and the probation  
22 officer, of course, his response is going to make that  
23 judgment.

24 I note you have been employed for eleven years as a  
25 truck driver, and you're required to pay child support once you

1 get out of jail and maintain gainful employment in accordance  
2 with whatever the ruling is of the court where the child lives.

3 And I will not impose any fine, cost of  
4 incarceration, or cost of supervision because I've made a  
5 judgment you do not have the ability to pay that.

6 The \$100 special assessment for each count has to be  
7 paid, which is \$200.

8 So to be clear, I've sentenced you to 90 months in  
9 the custody of the Bureau of Prisons, placed you on a five-year  
10 term of supervised release, with the conditions I just  
11 enumerated.

12 MR. KAMENS: Your Honor, we'd ask for a  
13 recommendation of Fort Dix or a facility as close to New Jersey  
14 as possible.

15 THE COURT: All right. I'll -- well, do you know if  
16 they have any sex offender treatment at Fort Dix?

17 MR. KAMENS: I do not.

18 THE COURT: Well, let me do this: I'm hesitant to  
19 make that recommendation without learning that Fort Dix has a  
20 sex offender treatment program. I think they're going to look  
21 at where he lives --

22 MR. KAMENS: I can find out by the end of the day,  
23 Your Honor. I could find out by the end of the day if they  
24 have a sex offender --

25 THE COURT: If you let me know by the end of the day,

1 I'll consider that, but unless they have one, I'm not willing  
2 to make that recommendation.

3 MR. KAMENS: Understood.

4 THE COURT: All right, thank you.

5 MR. KAMENS: Thank you, Your Honor.

6 MR. GARDNER: Thank you.

7 THE COURT: You-all are dismissed.

8 MR. KAMENS: Just to be clear, that he should receive  
9 credit from his incarceration in Fairfax?

10 THE COURT: Well, let me see what the  
11 probation -- the presentence report says. I believe it should  
12 be on the face of the report.

13 MR. KAMENS: It does say on the face.

14 THE COURT: He will get credit for time served from,  
15 it says, March 14, 2014, to June 26, 2014.

16 MR. KAMENS: Right. Thank you.

17 MR. GARDNER: I think that would be appropriate as  
18 well.

19 THE COURT: All right. I'll put that in the order.  
20 Thank you very much. You-all are excused.

21 (Which were all the proceedings  
22 had at this time.)  
23  
24  
25

## CERTIFICATE OF THE TRANSCRIBER

I certify that the foregoing is a true and correct transcript, to the best of my ability, of the above pages, of the stenographic notes of Renecia A. Smith-Wilson, provided to me by the Eastern District of Virginia, Alexandria Division, of the proceedings taken on the date and time previously stated in the above matter. I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further that I am not financially nor otherwise interested in the outcome of the action.

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/s/

Anneliese J. Thomson